



National Redress Scheme & the Local Baptist Church Info Sheet

The vision of the Baptist Churches of South Australia is to be a movement of local churches thriving in Jesus, transforming the world. Part of our mission and commitment to build healthy churches is to ensure our churches are safe places.

Note: this is a summary information sheet only, and is not exhaustive. Please contact BCSA if you have any specific enquiries. [Email: redress@sabaptist.asn.au]

A few definitions...

In this document, the following definitions have been used:

- leadership team: Board, Council, Elders or Deacons – whoever the governing body is
- BCSA: Baptist Churches of South Australia
- church: the individual, local member church
- Scheme: the National Redress Scheme administered by the Federal Government
- Royal Commission: The Royal Commission into Institutional Responses to Child Sexual Abuse
- Assembly Board - means the body delegated by the Assembly to govern the Baptist Churches of South Australia Inc.

What remedies or options does a person who has experienced institutional child sexual abuse have available to them?

When a person has been abused, they may want to seek:

- **A response.** They may want someone to hear what happened to them, to believe them, to offer an apology, and to take appropriate action. They want and need a satisfactory response.
- **Redress.** Whilst Redress would include all elements of response, it also includes monetary payment, and ongoing support. The standard of proof for Redress is 'reasonable likelihood'.
- **Civil.** A person can instigate civil action. The standard of proof for civil action is 'balance of probabilities'.
- **Criminal.** The police may bring criminal charges against the perpetrator. The standard of proof for criminal charges is 'beyond reasonable doubt'.

What is Redress?

Redress is an action taken to correct, fix or remedy a situation. In the context of redress for abuse, it is important to know that it is distinct from compensation, or restoration. The encounter between Jesus and Zacchaeus is an example of an attempt to restore, or repay, what is stolen. What was 'stolen' from those who have been abused cannot be fully restored by money, however action can be taken to 're dress' the wounds and help with the often life long, ongoing healing.

"Any redress schemes or processes should be survivor focused, and assessed with appropriate regard to the needs of particularly vulnerable survivors." ¹ Many institutions have operated their own Redress schemes in order to fix something.

What is the National Redress Scheme?

Throughout the Royal Commission, it became apparent that many people did speak up and report to the institutional abuser, but were sadly dismissed, ignored or mistreated. Perhaps you can understand how difficult it would be for someone who has been abused to go to the perpetrator...

In 2015, the Royal Commission into Institutional Responses to Child Sexual Abuse issued a 'Redress and Civil Litigation' report which included recommendations for the establishment of a National Redress Scheme. The aim of the National Redress Scheme is to provide justice for victims:

*"A process for redress must provide equal access and equal treatment for survivors –regardless of the location, operator, type, continued existence or assets of the institution in which they were abused – if it is to be regarded by survivors as being capable of delivering justice."*ⁱⁱ

The Federal government has been empowered by the State governments to administer a National Redress Scheme (the Scheme) to allow people who experienced institutional child sexual abuse to seek redress. The scheme began on 1 July 2018, and will operate for 10 years. The Federal Government, State Governments, major denominations (Catholics, Anglicans, Salvation Army and Uniting Church) as well as other non-profit organisations such as YMCA and Scouts have all announced they are opting into the scheme.

There are three elements to providing an adequate redress response under the scheme:

- Payment for counselling and psychological assistance;
- The opportunity for a Direct Personal Response (apology) from a senior representative of the institution in which the abuse took place; and
- A monetary redress payment of between \$10,000 and \$150,000 depending on the severity of the abuse.

When a person accepts a payment as a result of a claim to the redress scheme, they are extinguishing their right to bring a civil claim against the institution and other institutions in the participating group in regard to the abuse in the future.

What does it mean to 'opt-in'?

To 'opt-in' is to become a participant in the Scheme. This would enable people who experienced child sexual abuse in a participating institution to make an application for redress through the National Redress Scheme. The Scheme will then assess the claim, liaising between the person and the institution to enable redress to occur.

A Baptist response

The Royal Commission listed 40 individual people who told their stories of abuse, in private sessions, making allegations about 30 Baptist entities across Australia. There is a strong expectation that the final number of claims for Redress may be anywhere between three and six times these numbers.

While preparing to engage with the National Redress Scheme may thus far not have occupied much of our attention in our local churches, significant thinking, discussion and interaction with government has already gone on about it in the State Association and National Baptist contexts. As we have reflected on the concept of the National Scheme, the model, our Baptist context and our societal context, the Australian Baptist Ministries National Council, at its meeting of 16 May agreed that Australian Baptists should opt in to the scheme. It resolved:

"That the model for the National Redress Scheme be that each state, territory and affiliated agency opt in individually. The National Council urges each state, territory and affiliated agency to undertake all steps necessary through their own governance processes to opt in the National Redress Scheme."

Because the way forward is for each State and Territory Association to opt in to the scheme, this matter will need to be put before each State and Territory Assembly.

What would 'opting in' look like for Baptist Churches of South Australia?

All states have been, and are continuing to work together with Australian Baptist Ministries and in co-operation with the National Redress Scheme. For BCSA, this will mean bringing recommendations to local BCSA member churches as soon as possible to facilitate all member churches to join the Scheme.

The Assembly Board strongly supports the objective of finding a non-legal mechanism to provide redress for those who have experienced institutional child sexual abuse in Baptist contexts. The Redress Scheme is not a perfect scheme (even the Government acknowledges this) and yet it is probably the best chance of providing measured redress in the most compassionate way possible.

The resolution of Australian Baptist Ministries has been considered by the Assembly Board and at its meeting on 4 June 2018, it was resolved to "*work intentionally and expeditiously toward opting into the National Redress Scheme*".

As we are continuing in discussions with the Commonwealth Government regarding some aspects of its operation in a Baptist context, and negotiating a process that would minimise the administrative load on local member churches, a motion will be prepared for the Assembly's consideration.

It is understood that if a motion is approved by Assembly, BCSA would then liaise with the National Redress Scheme, and member churches to finalise the application to participate in the Scheme, and if accepted, BCSA would enter into a Memorandum of Understanding with the Scheme on behalf of the churches. This is known as a Participating Group. BCSA would then become jointly liable with each local member church to cover the cost of payments that would arise under the Scheme from that local church. A mechanism will need to be put in place to share the burden of these costs across the churches and BCSA.

What does that mean for the local church?

Every State Baptist Association is encouraging every local member church to be a participant in the Scheme. BCSA staff are working closely with the National Redress Scheme, who have offered a model to negotiate the most efficient way to opt in.

Should Assembly make the decision to 'opt in', the local member churches will be part of the BCSA group. Those who wish to make a Redress claim will be able to see each participating local church listed in the National Redress Scheme, with BCSA as the nominated representative. This means that most of the administrative load of negotiating with the Scheme, making necessary arrangements and liaison would be managed through the BCSA office. The local church will be involved, however the paperwork and operation as participants of the Scheme would be largely done through BCSA. This ensures mutual support and a consistent response for all concerned. **Unincorporated member churches are unable to opt in in their own right due to not being a legal entity and must nominate a representative. i.e. BCSA.**

Each church will be responsible for any Redress debts incurred for claims made in relation to their local church only. No local church will be responsible for the debt of another local church, or for claims against BCSA ministries.

We encourage every church leadership team to actively engage with the information and distributed material. It will also be important for your church leadership to discuss the implications of the Scheme and discuss concerns with BCSA prior to Assembly.

We also encourage you to nominate the appropriate number of delegates to ensure that you are represented at Assembly. It would be wise to ensure that delegates are adequately briefed.

What happens if we don't opt-in?

If we do not opt-in, we will still need a scheme through which those who experienced child sexual abuse in our churches can access redress. We would then need to manage and administrate the scheme. Australian Baptist Ministries has spent some time considering all options, and have made the recommendation that each state opt in.

Should a Redress Scheme not be available, those who have experienced child sexual abuse may consider taking alternative action. This can be distressing, and traumatizing for those who have experienced child sexual abuse. **Local churches who do not opt-in would then need to manage any claims or allegations themselves. This includes incurring charges for investigations, legal fees, and the staff resourcing to manage the claim, the apology and any other necessary arrangements.**

What would the process for a National Redress claim look like?

Whilst details are still being finalised, the following is the likely process for a scheme claim:

- A person who has experienced institutional child sexual abuse makes application to the scheme
- BCSA is advised of a claim
- BCSA will contact the local church and advise, discuss and verify information
- BCSA responds to the Scheme with any requested information
- BCSA notified of outcome, including sum granted
- BCSA invoiced for Scheme costs
- BCSA liaises with local church around payment
- Once outcome has been settled, survivor can request a Direct Personal Response
- BCSA advised of response request and appoints liaison

How will claims be funded?

The responsibility and liability for redress belongs with the local church – both morally and financially. It is anticipated that payments will range from \$10,000 to \$150,000, plus scheme and administrative costs. The average payment, including 'on costs', is estimated to be \$85,200. In most cases there is unlikely to be any insurance cover available to pay redress claims.

It should be noted that these amounts are significantly lower than what would be expected under civil action claims for the same type of abuse, and without the emotional and legal costs involved in such claims. BCSA is working towards establishing a Redress Support Pool. This pool would assist local churches to meet their obligations.

The details of how the Support Pool will be administered are still being finalised. The following information outlines the principles behind the model:

We believe that having a Redress Support Pool is an outworking of our Baptist values:

- **Mission and Witness:** for our response to be a gospel response that underlines God's love and grace; and the important of restitution and apology where we have wronged others.
- **Association and collaboration:** we are better when we work interdependently together in matters such as this which require a whole of movement response.
- **Autonomy of the local church:** empowering, enabling and supporting each local church to fulfil its responsibilities in a supportive and consistent way.

Contributions to the Redress Support Pool would be through a levy, payable annually over the 10 year life of the Scheme. The annual levy for each church is planned to be a flat fee + a percentage of the church's insured asset value. The levy will be reassessed regularly throughout the life of the Support Pool.

In addition to the funds raised by the levies from churches, BCSA will be setting aside funds to commit as needed to the Support Pool.

When a claim is accepted by the Redress Scheme and a payment made, BCSA will be advised and an invoice sent. The local church will need to make an initial contribution based on the capacity of the church pay. There will be a minimum payment value, related to 'capacity to pay', which has yet to be set. Once the church contribution has been calculated, any balance of payment would then be made from the Support Pool. For churches unable to make the minimum payment, alternative arrangements may need to be explored.

BCSA will be the funder of last resort, as well as fully fund any claims made against BCSA itself, or for closed churches where the assets were returned to BCSA.

Who makes the apology?

If a person has accessed the National Redress Scheme, after settlement, they can request a Direct Personal Response. A Survivor Liaison Officer will work with the survivor, BCSA and the local member church to facilitate an appropriate apology on behalf of the church. The apology is likely to be given on behalf of the local church through BCSA, however this may also include the local church. Specialist training will be required for the Survivor Liaison Officer, and the person making the apology.

What's next?

Arrangements are still being made, but we are proceeding along the lines of the information in this document. We suggest you provide your leadership team with this information. Information sessions will be held before Assembly meets in November.

Who can I talk to?

Contact the Baptist Churches of South Australia to speak to Mike Mills (State Executive Minister).

Email: redress@sabaptist.asn.au Phone: (08) 8357 1755

i <https://www.childabuseroyalcommission.gov.au/redress-and-civil-litigation>

ii <https://www.childabuseroyalcommission.gov.au/redress-and-civil-litigation>

This is general information only for Baptist Churches of South Australia, and is not a substitute for legal advice.